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STATE FOR EUR/CARC, EEB/IFD/OIA AND L/CID

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TAGS: [EINV](#) [PREL](#) [PGOV](#) [KIDE](#) [OPIC](#) [CASC](#) [GG](#)
SUBJECT: 2008 INVESTMENT DISPUTES REPORT FOR GEORGIA

REF: STATE 43784

11. Post submits the following information in response to reftel request for information on investment disputes.

12. A. Claimant A

1B. Year dispute arose: 2006.

1C. Case History: Claimant A and his partners purchased the shares of a company that owns a defunct garment factory in Tbilisi. Claimant A intends to redevelop the factory building and real estate to create a shopping complex. The factory was privatized by the state and a private Georgian company was set up to own it in 1998. After that, the shares were sold to a Georgian investor. Claimant A's partnership purchased the shares of the company in 2005 from the Georgian investor. According to the claimant, the Georgian government now claims that the company was privatized with the help of bribes paid to corrupt ministry officials in 1998. It also claims that the company owes an undetermined amount of back taxes. Because of the problems with the original privatization, the shares of the company were attached by attorneys representing the government in 2006. Claimant A succeeded in having that attachment released. However, as a result of the tax problem, the assets of the company were frozen by order of the Prosecutor General of Georgia in 2007.

Claimant A asserts that the freezing of the assets is wrongful and estimates damages as USD 1 million. In October 2007, Embassy Tbilisi arranged and attended a meeting between Claimant A and the Deputy Minister of Economic Development. Subsequently, the Ministry and Claimant A reached an agreement that released the assets of the company and permitted development of the property to proceed. In April 2008, Claimant A informed the Embassy that the Tax Department of the Ministry of Finance had refused to issue a routine extract of the corporate register that Claimant A's company needed to support its appearance in court in the tax dispute.

Embassy Tbilisi discussed the matter with the First Deputy Minister of Finance in May 2008 and as of the date of this report is waiting for an explanation of why the extract cannot be issued.

13. A. Claimant B

1B. Year dispute arose: 2004.

1C. Case History: Claimant B asserts that she is the owner of 4.5% of a Georgian cigarette manufacturer ("the company").

According to the claimant, in September 2004 the owner of another 10 percent of the shares of the company (a private citizen) obtained control of the remaining 90 percent of the shares of its shares, including those owned by Claimant B, by using an allegedly forged power of attorney. A civil case was filed in 2004 to reverse the transactions that resulted in the loss of the loss of Claimant B's interest in the company. Claimant B states that no final judgment has been rendered in the civil case, after repeated postponements of

hearings. Georgian prosecutors have refused to prosecute the alleged forgers of the power of attorney. According to the claimant, a conviction in the criminal case is essential under Georgian law for proof of the fact of forgery in the civil case. Claimant B states that judges and prosecutors involved in the civil and criminal cases are being manipulated by Georgian Government officials, to Claimant B's detriment and for the benefit of the private party who now controls the company. In spring 2007, Embassy sought guidance from the Department. Because the company is 95.5 percent owned by a Canadian citizen, the company was advised to contact the Canadian Embassy in Ankara. Claimant B was advised of this in May 2007.

14. A. Claimant C

1B. Year dispute arose: 2008

1C. Case History: Claimant C is the part owner of a Georgian corporation that owns an office building and land in Tbilisi. In August 2007, the Georgian corporation signed an agreement to sell the property to a company controlled by another foreign investor. The agreement was terminated by Claimant C and the other company brought suit for damages in the Tbilisi City Court. The plaintiff obtained a pre-trial lien on Claimant C's property for USD 10 million. Claimant C has been unable to convince the trial court to release the lien, and judgment in the case has been delayed since August 2007. Claimant C alleges that its opponent has admitted having undue influence over the judge in the case that allows him to delay the proceedings indefinitely. Claimant C states that it has other evidence of corruption or undue influence over the judge. Embassy Tbilisi has assisted Claimant C to bring its allegations of corruption to the attention of the Prosecutor General. Claimant C and the Embassy are working to secure a meeting with the Prosecutor to discuss the case and request an appropriate investigation.

15. A. Claimant D (note: post does not believe the investor in this case meets the definition of a "U.S. investor" contained reftel, because it is not at least 50 percent owned by U.S. citizens, but is a wholly-owned subsidiary of a Netherlands corporation. Facts of the case are provided for the department's information.)

1B. Year dispute arose: 2005

1C. Case History: Claimant D is a corporation incorporated in Florida. Claimant D states that it is wholly owned by a Netherlands corporation, and post believes that Claimant D is not, repeat not, at least 50 percent owned by U.S. citizens, per the definition of U.S. person in para 13 of reftel. Claimant D alleges that in 2002 it was owed USD 26 million for deliveries of natural gas from Russia to Georgian state-owned entities. It states that in 2003 it assigned its claims to a Georgian state-owned company in return for USD 13 million, with a guarantee of payment from the Georgian government. It alleges that the USD 13 million was not paid by the debtor and that the GOG has failed to honor the guarantee. It also alleges that the GOG failed to fulfill all the terms of a purchase agreement for a state-owned chemical company. Claimant D states that it has filed an arbitration on May 7 at the International Center for the Settlement of Investment Disputes under the U.S.-Georgia bilateral investment treaty (BIT) and the Netherlands-Georgia BIT, based on claims arising from the purchase of the chemical company.

16. Claimant A: Francis Hunnewell, an American citizen, who is a partner in the U.S. partnership Eljan Holdings, Ltd., which is owner of Gibraltar registered Lanner Holdings, Ltd., which is owner of the shares of the Maudi company. Post has no privacy act waiver signed by claimant.

Claimant B: Muna Pirrin, an American citizen. Post has no privacy act waiver signed by claimant.

Claimant C: Joel Golevsky, an American citizen and

shareholder in the Georgian company Basel Group, LLC. Post has no privacy act waiver signed by claimant.

Claimant D: Itera International Energy LLC, incorporated under Florida law, a wholly owned subsidiary of Itera Group, NV, incorporated in the Netherlands.
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